

# Agenda Extraordinary Meeting

Thursday, 19 May 2022



**BYRON**  
SHIRE  
COUNCIL

# Agenda Extraordinary Meeting

held at Conference Room, Station Street, Mullumbimby  
commencing at 2.30pm

Public access relating to items on this agenda can be made between 9:00 and 10:30 am on the day of the meeting. Requests for public access should be made to the General Manager or Mayor no later than 12:00 midday on the day prior to the meeting.

A handwritten signature in black ink, appearing to read "Mark Arnold".

**Mark Arnold**  
**General Manager**

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## CONFLICT OF INTERESTS

**What is a “Conflict of Interests”** - A conflict of interests can be of two types:

**Pecuniary** - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

**Non-pecuniary** – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Code of Conduct for Councillors (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

**Remoteness** – a person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in the Code of Conduct for Councillors.

**Who has a Pecuniary Interest?** - a person has a pecuniary interest in a matter if the pecuniary interest is the interest of the person, or another person with whom the person is associated (see below).

**Relatives, Partners** - a person is taken to have a pecuniary interest in a matter if:

- The person’s spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. “Relative”, in relation to a person means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person’s spouse;
- (b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

**No Interest in the Matter** - however, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

### Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
  - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or

- (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

**No Knowledge** - a person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

**Non-pecuniary Interests** - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as of the provisions in the Code of Conduct (particularly if you have a significant non-pecuniary interest)

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## RECORDING OF VOTING ON PLANNING MATTERS

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### Clause 375A of the Local Government Act 1993 – Recording of voting on planning matters

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
- (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
- (b) not including the making of an order under that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

**BYRON SHIRE COUNCIL**  
**BUSINESS OF EXTRAORDINARY MEETING**

1. PUBLIC ACCESS
2. APOLOGIES
3. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY
4. STAFF REPORTS

**Sustainable Environment and Economy**

- 4.1 NSW Flood Inquiry Submission ..... 6

***Councillors are encouraged to ask questions regarding any item on the business paper to the appropriate Executive Manager prior to the meeting. Any suggested amendments to the recommendations should be provided to the Administration section prior to the meeting to allow the changes to be typed and presented on the overhead projector at the meeting.***

STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

**Report No. 4.1 NSW Flood Inquiry Submission**

**Directorate:** Sustainable Environment and Economy

5 **Report Author:** Sharyn French, Manager Environmental and Economic Planning

**File No:** I2022/483

**Summary:**

10 In March 2022, the NSW Government commissioned an independent expert inquiry into the preparation for, causes of, response to and recovery from the 2022 catastrophic flood event across the state of NSW.

An independent flood inquiry has been established to examine and report on the causes of, preparedness for, response to and recovery from the 2022 catastrophic flood event.

15 Professor Mary O’Kane AC and Michael Fuller APM have been engaged to lead the Inquiry.

Submissions to the inquiry are open to 20 May 2022 with late submissions being accepted from impacted Local Government areas.

Council resolved (**Res. 22-156**) to prepare a submission and hold a Community Roundtable Meeting (held 10 May 2022) amongst other matters.

20 Staff have prepared a draft response to the NSW Flood Inquiries Terms of Reference (Attachment 1), for Councils’ consideration. It is proposed that this be submitted as part of a package of information to the NSW Flood Inquiry.

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**RECOMMENDATION:**






30 **That Council endorses the draft response to the NSW Flood Inquiries Terms of Reference (Attachment 1, E2022/37795), supporting information (Attachment 2, E2022/43685; Attachment 3, E2022/ 43662; Attachment 4, E2022/43660 and Attachment 5, E2022/43657) and results received to date from 3 Council surveys: ‘Share your Flood Story’, ‘Flood Height Survey’ and ‘Business Survey’ as Council’s submission to the NSW Flood Inquiry for lodgement online.**

# BYRON SHIRE COUNCIL

## STAFF REPORTS - SUSTAINABLE ENVIRONMENT AND ECONOMY

4.1

### **Attachments:**

- 1 Submission response to NSW Flood Inquiry Terms of Reference, 2022, E2022/37795 , page 12 [↓](#) 
- 5 2 February 2022 Flood Event – photographic story of the flood impact for submission to NSW Flood Inquiry, E2022/43685 , page 28 [↓](#) 
- 3 3 Community Roundtable Meeting 10 May - NSW Flood Inquiry - Meeting Notes, E2022/43662 , page 40 [↓](#) 
- 10 4 Community Roundtable Meeting 10 May - NSW Flood Inquiry - Brunswick Heads Foreshore Protection Society Submission, E2022/43660 , page 43 [↓](#) 
- 5 5 Community Roundtable Meeting 10 May 2022 - NSW Flood Inquiry - Main Arm Rural Residents Association (MARRA) submission, E2022/43657 , page 49 [↓](#) 

## **Report**

### **Inquiry commissioned**

5 In March 2022, the NSW Government commissioned an independent expert inquiry into the preparation for, causes of, response to and recovery from the 2022 catastrophic flood event across the state of NSW.

An independent flood inquiry was established to examine and report on the causes of, preparedness for, response to and recovery from the 2022 catastrophic flood event.

10 Professor Mary O’Kane AC and Michael Fuller APM have been engaged to lead the Inquiry.

The Inquiry will report on:

- the causes of and factors contributing to the frequency, intensity, timing and location of floods;
- preparation and planning by agencies and the community for floods in NSW;
- 15 • responses to floods, particularly measures to protect life, property and the environment;
- the transition from incident response to recovery;
- recovery, including housing, clean-up, financial support, community engagement and longer-term community rebuilding.

20 The Inquiry will consider and, if thought fit, make recommendations on a range of matters, including:

- the safety of emergency services and community first responders;
- current and future land use planning and management and building standards in flood prone locations across NSW;
- 25 • appropriate action to adapt to future flood risks to communities and ecosystems;
- coordination and collaboration between all levels of government.

The Inquiry is required to report to the Premier on causation, land use planning and management and related matters by 30 June 2022, and on all other matters by 30 September 2022.

30 Submissions to the inquiry close 20 May 2022 with late submissions accepted.



**Council resolved to prepare submission**

Council at the 28 April 2022 meeting resolved (**Res 22-156**):

- 5 1. *Notes the NSW Flood Inquiry is required to report to the Premier on causation, land use planning and management, and related matters (see paragraphs 1(a), 2(e) and 2(f)) of the Terms of Reference by 30 June 2022, and on all other matters by 30 September 2022.*
2. *Notes that Council will be able to submit at least 2 submissions to the NSW Flood Inquiry.*
- 10 3. *Receives a draft of Council's first submission to the NSW Flood Inquiry at an Extraordinary Meeting to be held on 19 May.*
4. *Encourages Councillors to submit concepts and materials towards Council's submission to staff by 10 May.*
- 15 5. *In light of point 2, considers for the relevant submission, commentary on issues pertinent to Byron Shire the result of the recent flood events including but not limited to: flooding of buildings, landslip affecting buildings, cutting of access by water and by landslip, adequacy of evacuation centres and post-flood recovery centres, loss of telecommunications and of power supplies, impacts on tenants and landlords and the pre-existing housing emergency;*
- 20 6. *Acknowledges the work of our local community and businesses in response to the local flood event and recovery activities thereafter.*
7. *Invites a representative from each local community organisation and business chamber to a 'Round Table' meeting to share submission concepts and materials;*
8. *Coordinates and shares submission concepts and materials with other flood-affected local government areas in our region;*
- 25 9. *Encourages and supports organisations engaged during and after the 2022 flood events to make their own submissions;*
10. *Encourages individuals, businesses and communities affected by the 2022 flood events to make their own submissions;*
- 30 11. *Requests the co-chairs of the NSW Flood Inquiry Professor Mary O'Kane AC and Michael Fuller APM to hold a community meeting for the Tweed / Byron area, to be hosted by Byron Shire Council in May 2022.*
12. *Encourages individuals, businesses and communities affected by the 2022 flood events to make their own submissions.*

**Draft Submission**

Council staff have prepared a submission (Attachment 1) that responds to the NSW Flood Inquiries Terms of Reference and accords with Council resolution.

The following additional information is also proposed to form part of our submission:

- 5 • February 2022 Flood Event – photographic story of the flood impact (Attachment 2)
  - Community Roundtable Meeting Notes and submissions from various community groups (Attachments 3 to 5). Note, if further community submissions are received from this meeting prior to uploading our submission these will also be included in Council’s submission package.
- 10 Additionally, responses from 3 Council surveys: ‘Share your flood story’ (15 responses received to date), ‘Flood Height Survey’ (183 responses received to date) and ‘Business Survey’ will be deidentified before including in Council’s flood submission package.

15 Council’s resolution notes that we’ll be able to submit at least 2 submissions to the NSW Flood Inquiry. If further data/ information comes to hand, then this can be considered as part of a future submission.

**Next steps**

20 That Council endorse the draft response to the NSW Flood Inquiries Terms of Reference (Attachment 1), supporting information (Attachments 2 to 5) and results received to date from 3 Council surveys: ‘Share your flood story’, ‘Flood Height Survey’ and ‘Business Survey’ as Councils submission to the NSW Flood Inquiry for lodgement online.

**Strategic Considerations**

**Community Strategic Plan and Operational Plan**

<b>CSP Objective</b>	<b>CSP Strategy</b>	<b>DP Action</b>	<b>Code</b>	<b>OP Activity</b>
<b>Community Objective 5: We have community led decision making which is open and inclusive</b>	5.3: Deliver a high level of customer service	5.3.1: Enhance external and internal customer service effectiveness	<b>5.3.1.4</b>	Prepare submission/s on draft changes to State government planning policy or legislative reforms

**Recent Resolutions**

- Resolution 22-156

**Legal/Statutory/Policy Considerations**

Not applicable

**5 Financial Considerations**

Not applicable

**Consultation and Engagement**

Community Roundtable Meeting held on Tuesday 10 May 2022.

# BYRON SHIRE COUNCIL

E2022/37795

**Submission to NSW Independent Flood Inquiry  
Byron Shire Council, May 2022**

Terms of Reference	Issues	Recommendations
<b>The Inquiry is to consider and report to the Premier on the following matters:</b>		
<b>Causes and contributing factors</b> 1 a. the causes of, and factors contributing to, the frequency, intensity, timing and location of floods in NSW in the 2022 catastrophic flood event, including consideration of any role of weather, climate change, and human activity	Climate Change contribution to changing weather systems  Aging infrastructure and superseded standards	Investigation required  Revise standards and strategic planning instruments  Increase Betterment Funding for future proofing
<b>Preparation and Planning</b> 1 b. the preparation and planning by agencies, government, other entities and the community for floods in NSW, including the accuracy and timing of weather forecasts, current laws, emergency management plans, practices and mitigation strategies, their application and effect	Recent and 2017 flooding has suggested that weather systems are acting in new ways that existing weather models do not understand and struggle to predict.  Currently works under Part 5 (REF) processes now need to be referred to emergency agencies, but part 4 applications do not.  Local flooding in last 10 years questions validity of the sizing of Annual Recurrence Intervals for rainfall volumes and intensity.  A State Government Post Flood Analysis of Bruns, Tallow and Belongil catchments is currently	Discuss with BOM and provide guidance. Consider the need for BOM to provide different forecast products when or if there are unknowns in severe weather predictions to ensure agencies stay on high alert.  Consider if this requirement should be expanded to part 4 applications.  Investigate and provide advice. The 100 year flood event could be larger than we are currently predicting in Australian Rainfall and Runoff.

## BYRON SHIRE COUNCIL

E2022/37795

Terms of Reference	Issues	Recommendations
	underway. A copy of this will be submitted to the Inquiry once finalised.	
<p><b>Response to floods</b></p> <p>1 c. responses to floods, particularly measures to protect life, property and the environment, including:</p> <p>i. immediate management, including the issuing and response to public warnings;</p> <p>ii. resourcing, coordination and deployment, including with respect to the Australian Defence Force; and</p> <p>iii. equipment and communication systems</p>	Public evacuation warnings were issued too late and multiple warnings were issued during non-waking hours – many residents were asleep and could not evacuate as the town had already been cut off and homes impacted.	Evacuation warnings need to be issued earlier and during waking hours.
	Public evacuation warnings issued by SES directed residents to an evacuation centre that was not operational. This resulted in extreme confusion and distress for residents as well as the informal, ad-hoc operation of the site.	SES needs to confirm that evacuation centre is operational, prior to issuing evacuation directives to residents.
	<p>Evacuation centre was not operational because DCJ staff failed to arrive on site before the town was cut off and did not seek alternative access (e.g. police escort by boat).</p> <p>The site’s Manager and 1 staff member catered to the needs of 300+ residents who had been forced to evacuate locally, with issues including:</p> <ul style="list-style-type: none"> <li>- No registration process, therefore no subsequent support available</li> <li>- No covid safety processes, therefore significant covid risk</li> <li>- No supply of bedding/blankets/dry clothes etc.</li> <li>- Limited supply of food/water</li> </ul>	DCJ staff take precautionary approach to schedule arrival on site prior to flood impact/isolation of community. Alternatively, DCJ staff receive priority marine escort to evacuation centre in situations where site has been cut off.

## BYRON SHIRE COUNCIL

E2022/37795

Terms of Reference	Issues	Recommendations
	<ul style="list-style-type: none"> <li>- No support for people with significant support needs, e.g. disability, covid-positive, significant distress, etc.</li> </ul>	
	<p>Extensive advocacy and escalation was needed before DCJ staff arrived 48 hours into the flood impact. However, the vast majority of centre attendees had already left due to the poor conditions and lack of resourcing and support.</p> <p>Anecdotal information indicates that many of these residents returned home to flood impacted properties (without an SES confirmation it was safe to return), despite the risks and discomfort, as it was preferable to their experience at the informal evacuation centre.</p> <p>DCJ staff then sought to close the site as soon as possible rather than establish effective communications regarding its operational status.</p>	<p>Increased DCJ evacuation centre staffing surge capacity and meaningful collaboration with local communities to ensure safety of residents at operational evacuation centres.</p>
	<p>During emergency events a number of agencies are acting in separation and only combined via the Local Emergency Management Committee (LEMC). This then relies on one person to disseminate information to each agency staff. In large events it is not possible for agency staff to stay up to date with warning, evacuations and more. Further lead agencies were not always in attendance at LEMC / EOC.</p>	<p>Investigate the appropriateness of an agency wide solution such as the EMCOP used in Victoria or other solutions that allow improved and timely information sharing.</p>
	<p>The deployment of ADF teams was slow, cumbersome and committed later than desired.</p>	<p>Early commitment of ADF teams to support responsible agencies should be investigated and pre agreed methods (including templates) developed to</p>

















































































